

## **EXPLANATION OF CONSENT AGENDA ITEM E.2.c.(10) – August 24, 2016**

---

### **ITEM:**

Consideration of approving the grant of a non-exclusive drainage easement to Brevard County for the Canaveral Crossroads project on the barge canal. The document has been reviewed and approved by General Counsel and Port Attorney. (Denig/Shepard)

### **EXPLANATION:**

On December 17, 2014 CPA leased approximately 2.41 acres of property on the Barge Canal to Canaveral Crossroads, LLC for a marina and other ancillary uses associated to their residential development project on adjacent property within the jurisdiction of unincorporated Brevard County. One of the development requirements is the granting of a non-exclusive drainage easement to the County through two small portions of the Port's property for stormwater drainage facilities conveying stormwater runoff from the project. The drainage easement parcels, Parcel 8.03 and Parcel 8.04, are 0.06 acres and 0.14 acres, respectively, as identified in Exhibit A of the Drainage Easement. Canaveral Crossroads is required to repair and maintain the drainage easement parcels and the drainage improvements and appurtenant facilities, as well as comply with all applicable permits including permits issued by the St. John's River Water Management District.

### **FUNDING REVIEW BY FINANCE (Pat Poston):**

### **STAFF RECOMMENDS APPROVAL:**

Prepared by: Diane Denig / Scott Shepard

**DRAINAGE EASEMENT**

**THIS INDENTURE**, made this \_\_\_\_ day of \_\_\_\_\_, 2016, between **CANAVERAL PORT AUTHORITY**, an independent special taxing district and political subdivision of the State of Florida, whose address is 445 Challenger Road, Suite #301, Cape Canaveral, Florida, 32920, as the first party, and **BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose mailing address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, as the second party, for the use and benefit of Brevard County;

**WITNESSETH:** That the first party, in consideration of Ten Dollars (\$10.00) and other valuable consideration paid, the receipt of which is hereby acknowledged, hereby grants unto the second party, its successors and assigns, a non-exclusive perpetual drainage easement commencing on the above date for the purposes of constructing and maintaining drainage and related drainage structures as necessary and other allied uses pertaining thereto which shall be strictly construed so as not to enlarge the use, scope, or purpose of the easement.

The land affected by the granting of this easement is located in Section 11, Township 24 South, Range 36 East, County of Brevard, and State of Florida, more particularly described as follows:

**SEE LEGAL DESCRIPTION ATTACHED HERETO AS "EXHIBIT A"**

**TO HAVE AND TO HOLD** said easement unto the County of Brevard and to its successors and assigns.

The first party does hereby covenant with the second party that it is lawfully seized and possessed of the lands above described and that it has a good and lawful right to grant this drainage easement.

**IN WITNESS WHEREOF**, the first party having set their hand and seal this, the day and year first above written.

Signed, sealed, and delivered in the presence of:

**CANAVERAL PORT AUTHORITY**

\_\_\_\_\_  
Witness  
\_\_\_\_\_  
(Print)  
\_\_\_\_\_  
Witness  
\_\_\_\_\_  
(Print)

\_\_\_\_\_  
Jerry W. Allender, Chairman

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2016, by Jerry W. Allender as Chairman of the Canaveral Port Authority, who is personally known to me/ or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

WITNESS my hand and official seal at (City) \_\_\_\_\_, County of Brevard, State of Florida, this \_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
**NOTARY PUBLIC**  
\_\_\_\_\_  
Print Name  
Commission No. \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

Board Date: \_\_\_\_\_  
Agenda Item #: \_\_\_\_\_

# LEGAL DESCRIPTION

SECTION 11, TOWNSHIP 24 SOUTH, RANGE 36 EAST  
PARCEL 803, PARENT PARCEL ID\* 24-36-11-00-00513.0-0000.00  
PARCEL 804, PARENT PARCEL ID\* 24-36-11-00-00513.0-0000.00  
PURPOSE: DRAINAGE EASEMENTS

**EXHIBIT A**  
**SHEET 1 OF 3**  
FOR SKETCH OF DESCRIPTIONS  
SEE SHEETS 2 & 3  
NOT VALID  
WITHOUT SHEETS 2 & 3

## LEGAL DESCRIPTION: PARCEL 803, DRAINAGE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND LYING IN SECTION 11, TOWNSHIP 24 SOUTH, RANGE 36 EAST, TALLAHASSEE BASE MERIDIAN, BREVARD COUNTY, FLORIDA, OVER AND ACROSS A PART OF THE LANDS AS DESCRIBED IN DEED BOOK 329, PAGE 572, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 3 AND THE SOUTH LINE OF THE LANDS DESCRIBED IN SAID DEED BOOK 329, PAGE 572, SAID POINT ALSO BEING THE POINT-OF-BEGINNING OF THE LANDS DESCRIBED IN SAID DEED BOOK, IN AFORESAID PUBLIC RECORDS; THENCE S79°58'00"W, ALONG THE WESTERLY JOG OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 3 AND SAID SOUTH LINE OF THE AFORESAID LANDS, A DISTANCE OF 27.08 FEET TO THE POINT-OF-BEGINNING; THENCE, CONTINUING ALONG SAID SOUTH LINE, S79°58'00"W, A DISTANCE OF 15.01 FEET; THENCE, DEPARTING SAID SOUTH LINE, N79°58'19"W, DISTANCE OF 160.70 FEET (+/-), TO THE OBSERVED HIGH WATER LINE AS LOCATED ON APRIL 10, 2015, OF THE CANAVERAL PORT AUTHORITY BARGE CANAL; THENCE N82°01'41"E, ALONG SAID OBSERVED HIGH WATER LINE, A DISTANCE OF 15.00 FEET (+/-); THENCE S07°58'19"E, A DISTANCE OF 160.16 FEET (+/-) TO THE SAID SOUTH LINE OF THE AFORESAID LANDS DESCRIBED IN SAID DEED BOOK AND THE POINT-OF-BEGINNING.

CONTAINING 0.06 ACRES (2,613.60 SQUARE FEET), MORE OR LESS, AND BEING SUBJECT TO ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

## LEGAL DESCRIPTION: PARCEL 804, DRAINAGE EASEMENT (BY SURVEYOR)

A PARCEL OF LAND LYING IN SECTION 11, TOWNSHIP 24 SOUTH, RANGE 36 EAST, TALLAHASSEE BASE MERIDIAN, BREVARD COUNTY, FLORIDA, OVER AND ACROSS A PART OF THE LANDS AS DESCRIBED IN DEED BOOK 329, PAGE 572, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 3 AND THE SOUTH LINE OF THE LANDS DESCRIBED IN SAID DEED BOOK 329, PAGE 572, SAID POINT ALSO BEING THE POINT-OF-BEGINNING OF THE AFORESAID LANDS DESCRIBED IN SAID DEED BOOK; THENCE S79°58'00"W, ALONG THE WESTERLY JOG OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 3 AND THE SAID SOUTH LINE OF THE AFORESAID LANDS, A DISTANCE OF 172.97 FEET; THENCE, CONTINUING ALONG THE SAID SOUTH LINE, S82°14'49"W, A DISTANCE OF 80.60 FEET TO THE POINT-OF-BEGINNING, SAID POINT BEING THE POINT OF INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF TINGLEY DRIVE, A 50 FOOT WIDE PUBLIC RIGHT-OF-WAY PER ROAD PLAT BOOK 1, PAGE 20, AND THE SAID SOUTH LINE OF THE AFORESAID LANDS; THENCE CONTINUE S82°14'49"W, ALONG SAID SOUTH LINE, A DISTANCE OF 350.00 FEET; THENCE N07°45'11"W, A DISTANCE OF 18.00 FEET; THENCE N82°14'49"E, PARALLEL WITH AND 18.00 FEET DISTANT FROM SAID SOUTH LINE, A DISTANCE OF 350.00 FEET; THENCE S07°45'11"E, A DISTANCE OF 18.00 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 0.14 ACRES (6,098.40 SQUARE FEET), MORE OR LESS, AND BEING SUBJECT TO ANY OTHER EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

### SURVEYOR'S NOTES:

1. THIS IS NOT A BOUNDARY SURVEY.
2. BEARINGS DEPICTED HEREON ARE ASSUMED AND ARE BASED ON THE SOUTH LINE OF THE CANAVERAL PORT AUTHORITY LANDS AS DESCRIBED IN DEED BOOK 329, PAGE 572, BEING N79°58'00"E.
3. FLORIDA POWER AND LIGHT EASEMENTS AS RECORDED IN OFFICAL RECORDS BOOK 2384, PAGE 1704 AND OFFICIAL RECORDS BOOK 2375, PAGE 1011, LOCATED AT THE WESTERLY BOUNDARY OF THIS PROPERTY, ARE NOT IMPACTED BY THE LOCATION OF THE DRAINAGE EASEMENTS.
4. THIS DESCRIPTION WAS PREPARED PURSUANT TO OPINION OF TITLE BY MOSLEY & WALLIS P.A., DATED JULY 24, 2015.
5. SKETCH DOES NOT WARRANT TITLE.
6. THIS SKETCH WAS PREPARED FOR THE EXCLUSIVE USE OF THE CLIENT (S) SHOWN HEREON; COPIES ARE VALID ONLY WHEN SIGNED, DATED AND EMBOSSED WITH THE SURVEYOR'S SEAL.

MAP OF LEGAL DESCRIPTION PREPARED FOR AND CERTIFIED TO: THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

### KUGELMANN LAND SURVEYING, INC.

30 NORTH TROPICAL TRAIL, SUITE B  
MERRITT ISLAND, FLORIDA 32953  
L.B. NO. 6575 - PHONE (321) 459-0930

 5/31/16  
DAVID J. KUGELMANN, PLS NO. 5117  
NOT VALID UNLESS SIGNED AND SEALED

DRAWN BY: V.E.M.  
DATE: 02/18/16

CHECKED BY: DJK  
SHEET 1 OF 3

DRAWING:  
CAPECROSSINGEASE2.DGN  
REVISIONS:

SECTION 11,  
TOWNSHIP 24 SOUTH,  
RANGE 36 EAST

# SKETCH OF DESCRIPTION

# EXHIBIT A SHEET 2 OF 3

SECTION 11, TOWNSHIP 24 SOUTH, RANGE 36 EAST  
 PARCEL 803, PARENT PARCEL ID\* 24-36-11-00-00513.0-0000.00  
 PURPOSE: DRAINAGE EASEMENT

THIS SKETCH IS NOT A SURVEY AND  
 IS NOT VALID WITHOUT THE LEGAL  
 DESCRIPTION ON SHEET 1 & 3 OF 3



GRAPHIC SCALE



1 INCH = 50 FEET

CANAVERAL PORT AUTHORITY BARGE CANAL

OBSERVED HIGH WATER LINE  
 AS LOCATED ON 4/10/15

PARENT PARCEL ID: 24-36-11-00-513.0-0000.00  
 THE CANAVERAL PORT AUTHORITY  
 455 CHALLENGER ROAD, SUITE 301  
 CAPE CANAVERAL, FL. 32920  
 DEED BOOK 329, PAGE 572

SOUTH LINE OF THE 400-FOOT PERPETUAL  
 EASEMENT TO THE UNITED STATES OF AMERICA  
 PER DEED BOOK 335, PAGE 251

SOUTH LINE OF LANDS DESCRIBED  
 IN DEED BOOK 329, PAGE 572  
 N79° 58'00"E (BEARING BASIS)

SOUTH LINE OF LANDS DESCRIBED  
 IN DEED BOOK 329, PAGE 572

PARCEL ID: 24-36-11-00-00505.0-0000.0  
 CANAVERAL CROSSROADS, LLC  
 P.O. BOX 1511  
 ORLANDO, FL. 32801  
 OFFICIAL RECORDS BOOK 6890, PAGE 2520  
 PARCEL TWO

ABBREVIATIONS:

R/W RIGHT-OF-WAY LINE  
 P.O. POST OFFICE  
 POB POINT-OF-BEGINNING  
 POC POINT-OF-COMMENCEMENT  
 FL. FLORIDA  
 MEAS MEASURED  
 P.U.E. PUBLIC UTILITIES EASEMENT  
 U.S. UNITED STATES  
 C.O.E. CORPS. OF ENGINEERS  
 ORB OFFICIAL RECORDS BOOK  
 PG. PAGE

PROJECT CAPECROSSINGEASE  
 SECTION 11, TOWNSHIP 24  
 SOUTH, RANGE 36 EAST

**KUGELMANN LAND SURVEYING, INC.**

30 NORTH TROPICAL TRAIL, SUITE B  
 MERRITT ISLAND, FLORIDA 32953  
 L.B. NO. 6575 - PHONE (321) 459-0930

PREPARED BY: DAVID J. KUGELMANN, P.L.S.

PARCEL 803 DRAINAGE EASEMENT  
 (0.06 ACRES +/-)

N07° 58'19"W 160.70' +/-

S07° 58'19"E 160.16' +/-

WESTERLY RIGHT-OF-WAY LINE

RIGHT-OF-WAY LINE

R/W TAKING  
 (O.R.B. 1218, PG. 924)

WESTERLY

STATE ROAD NO. 3

SECTION 70140-2514

(ALSO KNOWN AS NORTH COURTENAY PARKWAY)  
 (PUBLIC RIGHT-OF-WAY VARIES)

POC PARCEL 803

ALSO, POINT-OF-BEGINNING  
 OF PARENT PARCEL &  
 INTERSECTION OF WEST R/W  
 LINE OF STATE ROAD NO. 3  
 AND SOUTH LINE OF LANDS  
 DESCRIBED IN  
 DEED BOOK 329, PAGE 572

WESTERLY JOG OF  
 WESTERLY RIGHT-OF-WAY  
 OF STATE ROAD NO. 3  
 SECTION 70140-2514

S79° 58'00"W 27.08'

15.0

# SKETCH OF DESCRIPTION

SECTION 11, TOWNSHIP 24 SOUTH, RANGE 36 EAST  
 PARCEL 804, PARENT PARCEL ID\* 24-36-11-00-00513.0-0000.00  
 PURPOSE: DRAINAGE EASEMENT

# EXHIBIT A SHEET 3 OF 3

THIS SKETCH IS NOT A SURVEY AND  
 IS NOT VALID WITHOUT THE LEGAL  
 DESCRIPTION ON SHEET 1 & 2 OF 3

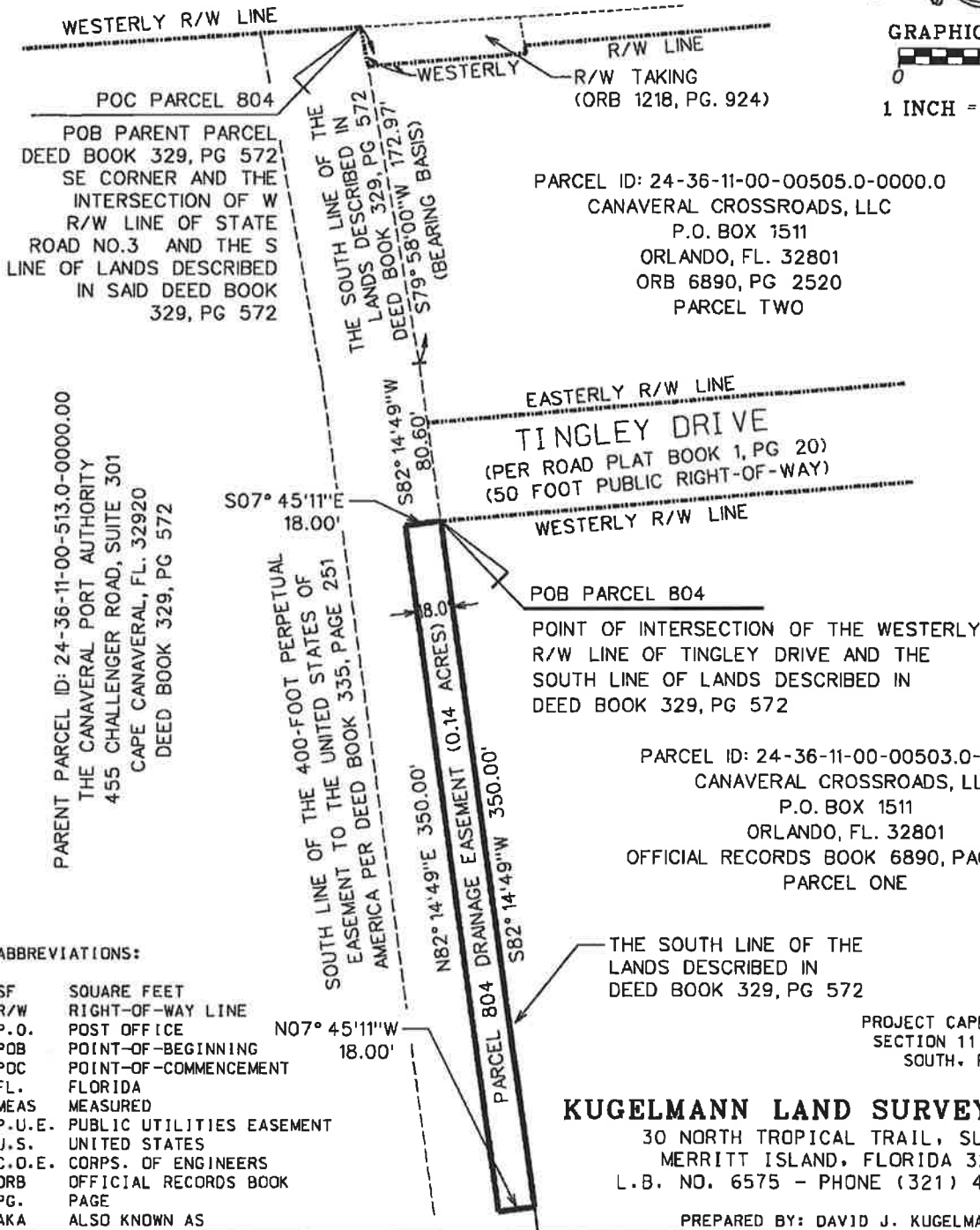
STATE ROAD NO. 3  
 SECTION 70140-2514  
 (AKA NORTH COURTENAY PARKWAY)  
 (PUBLIC R/W VARIES)

ASSUMED NORTH

GRAPHIC SCALE



1 INCH = 80 FEET



PARENT PARCEL ID: 24-36-11-00-513.0-0000.00  
 THE CANAVERAL PORT AUTHORITY  
 455 CHALLENGER ROAD, SUITE 301  
 CAPE CANAVERAL, FL. 32920  
 DEED BOOK 329, PG 572

PARCEL ID: 24-36-11-00-00505.0-0000.0  
 CANAVERAL CROSSROADS, LLC  
 P.O. BOX 1511  
 ORLANDO, FL. 32801  
 ORB 6890, PG 2520  
 PARCEL TWO

POINT OF INTERSECTION OF THE WESTERLY  
 R/W LINE OF TINGLEY DRIVE AND THE  
 SOUTH LINE OF LANDS DESCRIBED IN  
 DEED BOOK 329, PG 572

PARCEL ID: 24-36-11-00-00503.0-0000.0  
 CANAVERAL CROSSROADS, LLC  
 P.O. BOX 1511  
 ORLANDO, FL. 32801  
 OFFICIAL RECORDS BOOK 6890, PAGE 2520  
 PARCEL ONE

ABBREVIATIONS:

- SF SQUARE FEET
- R/W RIGHT-OF-WAY LINE
- P.O. POST OFFICE
- POB POINT-OF-BEGINNING
- POC POINT-OF-COMMENCEMENT
- FL. FLORIDA
- MEAS MEASURED
- P.-U.-E. PUBLIC UTILITIES EASEMENT
- U.S. UNITED STATES
- C.O.E. CORPS. OF ENGINEERS
- ORB OFFICIAL RECORDS BOOK
- PG. PAGE
- AKA ALSO KNOWN AS

**KUGELMANN LAND SURVEYING, INC.**  
 30 NORTH TROPICAL TRAIL, SUITE B  
 MERRITT ISLAND, FLORIDA 32953  
 L.B. NO. 6575 - PHONE (321) 459-0930

PREPARED BY: DAVID J. KUGELMANN, P.L.S.

**Joinder in Dedication of Drainage Easement in Favor of Brevard County**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, Canaveral Crossroads LLC, a Florida limited liability company whose mailing address is 522 Hunt Club Boulevard, Suite #301, Apopka, Florida, 32703, being the Lessees of that certain Lease Agreement recorded in the Public records of Brevard County Florida in Official Record Book 5804, Page 5990, and the Canaveral Port Authority, an independent special taxing district and political subdivision of the state of Florida, as Lessor(s); all recorded in the Public Records of Brevard County, Florida, does hereby join in and consent to the dedication of the drainage easement as shown on exhibit "A" attached hereto and made a part of this document, for all uses and purposes expressed therein, and further agrees that as of the date of this Joinder in Dedication, the Consenting Party hereby acknowledges receipt and executes this Joinder as Lessee and shall accept full responsibility and liability for maintenance of the drainage areas described herein Lessee hereby acknowledges that the Lessors shall accept no responsibility or liability in maintaining, construction, or repair in connection herewith this consent and Joinder in Dedication.

In Witnesses WHEREOF, the undersigned has caused these presents to be executed in its name on this, the 14th day of July, 2016.

Signed and sealed in the presence of:

[Signature]  
Witness

DANIEL P. JONES  
(print)

[Signature]  
Witness

Lucy Hamelers  
(print)

STATE OF Florida  
COUNTY OF Brevard

Canaveral Crossroads, LLC, a Florida limited liability company

By: Homemakers Management Corporation, a Florida corporation, Its Manager

By: [Signature]  
Martin C. Flynn, Jr., President

The foregoing instrument was acknowledged before me this 14th day of July, 2016, by Martin C. Flynn, Jr., President of Homemakers Management Corporation, as Manager of Canaveral Crossroads, LLC and that he is personally known to me or has produced drivers license as identification and that he did/or/did not take an oath.

WITNESS my hand and official seat at (City) Viera, County of Brevard State of Florida this 14th day of July 2016.

Notary [Signature]  
Print Name: \_\_\_\_\_  
Commission No. \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

Agenda Item # \_\_\_\_\_  
Board Meeting Date \_\_\_\_\_



**Lucy Hamelers**  
State of Florida  
My Commission Expires 02/24/2019  
Commission No. FF 194343